

tity that demonstrates capacity for and experience in—

- (1) replicating 1 or more similar programs at regional or national levels;
- (2) providing programmatic and technical implementation assistance for the program;
- (3) performing data collection and analysis to ensure proper implementation and continuous program improvement; and
- (4) providing accountability for results by measuring and monitoring achievement of programmatic milestones.

**(b) Oversight responsibilities**

**(1) Mandatory duties**

If the Director executes a contract under subsection (a) with an organization for program oversight and fiscal management, the organization shall—

(A) ensure that a grant recipient faithfully replicates and implements the program or programs for which the grant is awarded;

(B) ensure that grant funds are used for the purposes authorized and that a grant recipient has a system in place to track and account for all Federal grant funds provided;

(C) provide technical assistance to grant recipients;

(D) collect and analyze data and report to the Director annually on the effects of the program on—

(i) the progress of participating students in achieving teaching competence and teaching certification;

(ii) the participation of students in the program by major, compared with local and State needs on secondary teachers by discipline; and

(iii) the participation of students in the program by demographic subgroup;

(E) collect and analyze data and report to the Director annually on the effects of the program on the academic achievement of elementary and secondary school students taught by graduates of programs funded by grants under this chapter; and

(F) submit an annual report to the Director demonstrating compliance with the requirements of subparagraphs (A) through (E).

**(2) Discretionary duties**

At the request of the Director, the organization under contract under subsection (a) may assist the Director in evaluating grant applications.

**(c) Reports to Congress**

The Director shall submit a copy of the annual report required by subsection (b)(1)(F) to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Health, Education, Labor, and Pensions, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Education and Labor.

(Pub. L. 111-358, title V, §554, Jan. 4, 2011, 124 Stat. 4024.)

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science,

Space, and Technology of House of Representatives and Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

**§ 9905. Definitions**

In this chapter:

**(1) Field-based course**

The term “field-based course” means a course of instruction offered by an institution of higher education that includes a requirement that students teach a minimum of 3 lessons or sequences of lessons to elementary or secondary students.

**(2) Institution of higher education**

The term “institution of higher education” has the meaning given that term by section 1001 of this title.

**(3) Master teacher**

The term “master teacher” means an individual—

(A) who has been awarded a master’s or doctoral degree by an institution of higher education;

(B) whose graduate coursework included courses in mathematics, science, computer science, or engineering;

(C) who has at least 3 years teaching experience in K–12 settings; and

(D) whose teaching has been recognized for exceptional accomplishments in educating students, or is demonstrated to have resulted in improved student achievement.

**(4) Mentor teacher**

The term “mentor teacher” means an elementary or secondary school classroom teacher who assists with the training of students participating in a field-based course.

**(5) Director**

The term “Director” means the Director of the National Science Foundation.

(Pub. L. 111-358, title V, §555, Jan. 4, 2011, 124 Stat. 4025.)

**§ 9906. Authorization of appropriations**

There are authorized to be appropriated to the Director to carry out this chapter \$10,000,000 for each of fiscal years 2011 through 2013.

(Pub. L. 111-358, title V, §556, Jan. 4, 2011, 124 Stat. 4026.)

**CHAPTER 80—STATE FISCAL STABILIZATION FUND**

| Sec.   |  |
|--------|--|
| 10001. | Allocations.                                       |
| 10002. | State uses of funds.                               |
| 10003. | Uses of funds by local educational agencies.       |
| 10004. | Uses of funds by institutions of higher education. |
| 10005. | State applications.                                |
| 10006. | State incentive grants.                            |
| 10007. | Innovation Fund.                                   |
| 10008. | State reports.                                     |
| 10009. | Evaluation.  |
| 10010. | Secretary’s report to Congress.                    |
| 10011. | Prohibition on provision of certain assistance.    |

|        |                |
|--------|----------------|
| Sec.   |                |
| 10012. | Fiscal relief. |
| 10013. | Definitions.   |

### § 10001. Allocations

#### (a) Outlying areas

From the amount appropriated to carry out this chapter, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this chapter under such terms and conditions as the Secretary may determine.

#### (b) Administration and oversight

The Secretary may, in addition, reserve up to \$14,000,000 for administration and oversight of this chapter, including for program evaluation.

#### (c) Reservation for additional programs

After reserving funds under subsections (a) and (b), the Secretary shall reserve \$5,000,000,000 for grants under sections 10006 and 10007 of this title.

#### (d) State allocations

After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this chapter to the States as follows:

- (1) 61 percent on the basis of their relative population of individuals aged 5 through 24.
- (2) 39 percent on the basis of their relative total population.

#### (e) State grants

From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

#### (f) Reallocation

The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

(Pub. L. 111–5, div. A, title XIV, §14001, Feb. 17, 2009, 123 Stat. 279.)

### § 10002. State uses of funds

#### (a) Education fund

##### (1) In general

For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 10001(d) of this title for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

##### (2) Restoring State support for education

###### (A) In general

The Governor shall first use the funds described in paragraph (1)—

- (i) to provide the amount of funds, through the State's primary elementary and secondary education funding formulae, that is needed—

(I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

(ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

#### (B) Shortfall

If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

#### (C) Fiscal year

For purposes of this paragraph, the term “fiscal year” shall have the meaning given such term under State law.

#### (3) Subgrants to improve basic programs operated by local educational agencies

After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

#### (b) Other government services

##### (1) In general

The Governor shall use 18.2 percent of the State's allocation under section 10001(d) of this title for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

##### (2) Availability to all institutions of higher education

A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding

for modernization, renovation, and repairs within the State that—

(A) qualifies as an institution of higher education, as defined in subsection<sup>1</sup> 10013(3) of this title; and

(B) continues to be eligible to participate in the programs under title IV of the Higher Education Act of 1965.

**(c) Rule of construction**

Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

(Pub. L. 111-5, div. A, title XIV, §14002, Feb. 17, 2009, 123 Stat. 279; Pub. L. 111-8, div. F, title V, § 523(a), (b), Mar. 11, 2009, 123 Stat. 806.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(3), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (b)(2)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2009—Subsec. (a)(2)(A)(i). Pub. L. 111-8, §523(a), inserted “education” after “secondary” in introductory provisions.

Subsec. (b)(1). Pub. L. 111-8, §523(b), substituted “10001(d)” for “10001”.

**§ 10003. Uses of funds by local educational agencies**

**(a) In general**

A local educational agency that receives funds under this chapter may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (“IDEA”), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (“the Perkins Act”) or for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

**(b) Prohibition**

A local educational agency may not use funds received under this chapter for—

- (1) payment of maintenance costs;
- (2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
- (3) purchase or upgrade of vehicles; or
- (4) improvement of stand-alone facilities whose purpose is not the education of chil-

dren, including central office administration or operations or logistical support facilities.

**(c) Rule of construction**

Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

(Pub. L. 111-5, div. A, title XIV, §14003, Feb. 17, 2009, 123 Stat. 281; Pub. L. 111-8, div. F, title V, § 523(c), Mar. 11, 2009, 123 Stat. 806.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a), is title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, which is classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-8 substituted “the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.)” for “the Adult and Family Literacy Act (20 U.S.C. 1400 et seq.)”.

**§ 10004. Uses of funds by institutions of higher education**

**(a) In general**

A public institution of higher education that receives funds under this chapter shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of institution of higher education facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

**(b) Prohibition**

An institution of higher education may not use funds received under this chapter to increase its endowment.

**(c) Additional prohibition**

No funds awarded under this chapter may be used for—

- (1) the maintenance of systems, equipment, or facilities;
- (2) modernization, renovation, or repair of stadiums or other facilities primarily used for

<sup>1</sup> So in original. Probably should be “section”.

athletic contests or exhibitions or other events for which admission is charged to the general public; or

(3) modernization, renovation, or repair of facilities—

(A) used for sectarian instruction or religious worship; or

(B) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

(Pub. L. 111–5, div. A, title XIV, §14004, Feb. 17, 2009, 123 Stat. 281.)

## **§ 10005. State applications**

### **(a) In general**

The Governor of a State desiring to receive an allocation under section 10001(d) of this title shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

### **(b) Application**

In such application, the Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation, including whether the State will use such allocation to meet maintenance of effort requirements under the ESEA and IDEA and, in such cases, what amount will be used to meet such requirements.

### **(c) Incentive grant application**

The Governor of a State seeking a grant under section 10006 of this title shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (d), and the strategies the State is employing to help ensure that students in the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (20 U.S.C. 6311(b)(2)(C)(v)(II)) who have not met the State's proficiency targets continue making progress toward meeting the State's student academic achievement standards;

(3) describe the achievement and graduation rates (as described in section 1111(b)(2)(C)(vi) of the ESEA (20 U.S.C. 6311(b)(2)(C)(vi)) and as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations) of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2)) in the State continue making progress toward meeting the State's student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need local educational agencies; and

(5) include a plan for evaluating the State's progress in closing achievement gaps.

### **(d) Assurances**

An application under subsection (b) shall include the following assurances:

### **(1) Maintenance of effort**

#### **(A) Elementary and secondary education**

The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

#### **(B) Higher education**

The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at least at the level of such support in fiscal year 2006.

### **(2) Achieving equity in teacher distribution**

The State will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) of the ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

### **(3) Improving collection and use of data**

The State will establish a longitudinal data system that includes the elements described in section 9871(e)(2)(D) of this title.

### **(4) Standards and assessments**

The State—

(A) will enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a));

(B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of the ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of the IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with section 9871(e)(1)(A)(ii) of this title.

### **(5) Supporting struggling schools**

The State will ensure compliance with the requirements of section 1116(b)(7)(C)(iv) [20 U.S.C. 6316(b)(7)(C)(iv)] and section 1116(b)(8)(B) [20 U.S.C. 6316(b)(8)(B)] of the ESEA with respect to schools identified under such sections.

### **(6) Improving early childhood care and education**

The State will take actions to—

(A) increase the number and percentage of low-income and disadvantaged children in each age group of infants, toddlers, and pre-

schoolers who are enrolled in high-quality early learning programs;

(B) design and implement an integrated system of high-quality early learning programs and services; and

(C) ensure that any use of assessments conforms with the recommendations of the National Research Council's reports on early childhood.

(Pub. L. 111-5, div. A, title XIV, §14005, Feb. 17, 2009, 123 Stat. 282; Pub. L. 111-8, div. F, title V, §523(d)–(f), Mar. 11, 2009, 123 Stat. 806; Pub. L. 112-10, div. B, title VIII, §1832(b)(1), Apr. 15, 2011, 125 Stat. 164.)

#### REFERENCES IN TEXT

ESEA, referred to in subsec. (b)(3), is the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

IDEA, referred to in subsec. (b)(3), is the Individuals with Disabilities Education Act, Pub. L. 91-230, title VI, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Section 9871 of this title, referred to in subsec. (d)(3), (4)(C), was in the original “section 6401”, and was translated as meaning section 6201 of Pub. L. 110-69 to reflect the probable intent of Congress and the renumbering of section 6401 of Pub. L. 110-69 as section 6201 by Pub. L. 111-358, title X, §1002(b)(3), Jan. 4, 2011, 124 Stat. 4048.

#### AMENDMENTS

2011—Subsec. (d)(6). Pub. L. 112-10 added par. (6).

2009—Subsec. (a). Pub. L. 111-8, §523(d), substituted “10001(d)” for “10001”.

Subsec. (d)(4)(C). Pub. L. 111-8, §523(e), substituted “9871(e)(1)(A)(ii)” for “9871(e)(1)(9)(A)(ii)”.

Subsec. (d)(5). Pub. L. 111-8, §523(f), substituted “1116(b)(7)(C)(iv)” for “1116(a)(7)(C)(iv)” and “1116(b)(8)(B)” for “1116(a)(8)(B)”.

### § 10006. State incentive grants

#### (a) In general

##### (1) Reservation

From the total amount reserved under section 10001(c) of this title that is not used for section 10007 of this title, the Secretary may reserve up to 1 percent for technical assistance to States to assist them in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 10005(d) of this title.

##### (2) Remainder

Of the remaining funds, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 10005(d) of this title.

#### (b) Basis for grants

The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 10005 of this title and such other criteria as the Secretary determines appropriate, which may include a State's need for assistance to help meet the objective of paragraphs<sup>1</sup> (2), (3), (4), (5), or (6) of section 10005(d) of this title.

<sup>1</sup> So in original. Probably should be “paragraph”.

### (c) Subgrants to local educational agencies

#### (1) In general

Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

#### (2) Exception

Paragraph (1) does not apply to grants made by the Secretary to consortia of States to develop academic assessments that are aligned with academic standards, or to a State or States for improving early childhood care and education except that such a State may use its grant funds to make subgrants to public or private agencies and organizations for activities consistent with the purposes of the grant.

(Pub. L. 111-5, div. A, title XIV, §14006, Feb. 17, 2009, 123 Stat. 283; Pub. L. 111-117, div. D, title III, §310, Dec. 16, 2009, 123 Stat. 3272; Pub. L. 112-10, div. B, title VIII, §1832(b)(2), Apr. 15, 2011, 125 Stat. 164; Pub. L. 112-74, div. F, title III, §308, Dec. 23, 2011, 125 Stat. 1100.)

#### REFERENCES IN TEXT

ESEA, referred to in subsec. (c)(1), is the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

#### AMENDMENTS

2011—Subsec. (b). Pub. L. 112-10, §1832(b)(2)(A), substituted “(5), or (6)” for “and (5)”.

Subsec. (c)(2). Pub. L. 112-74 inserted before period at end “except that such a State may use its grant funds to make subgrants to public or private agencies and organizations for activities consistent with the purposes of the grant”.

Pub. L. 112-10, §1832(b)(2)(B), inserted before period at end “, or to a State or States for improving early childhood care and education”.

2009—Subsec. (c). Pub. L. 111-117 designated existing provisions as par. (1), inserted heading, and added par. (2).

### § 10007. Innovation Fund

#### (a) In general

##### (1) Eligible entities

For the purposes of this section, the term “eligible entity” means—

(A) a local educational agency; or

(B) a partnership between a nonprofit organization and—

(i) one or more local educational agencies; or

(ii) a consortium of schools.

##### (2) Program established

From the total amount reserved under section 10001(c) of this title, the Secretary may reserve up to \$650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

##### (3) Purpose of awards

The Secretary shall make awards to eligible entities in order to identify, document, and

bring to scale innovative best practices based on demonstrated success, to allow such eligible entities to—

(A) expand their work and serve as models for best practices; and

(B) work in partnership with the private sector and the philanthropic community.

**(b) Eligibility**

To be eligible for such an award, an eligible entity shall—

(1)(A) have significantly closed the achievement gaps between groups of students described in section 6311(b)(2) of this title; or

(B) have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section;

(2) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(3) demonstrate that it has established one or more partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

**(c) Special rule**

In the case of an eligible entity that includes a nonprofit organization, the eligible entity shall be considered to have met the eligibility requirements of paragraphs (1)(A) or (1)(B) and (2) of subsection (b) if the nonprofit organization has a record of significantly improving student achievement, attainment, or retention and shall be considered to have met the requirements of subsection (b)(3) if it demonstrates that it will meet the requirement relating to private-sector matching.

**(d) Subgrants**

In the case of an eligible entity that is a partnership described in subsection (a)(1)(B), the partner serving as the fiscal agent may make subgrants to one or more of the other entities in the partnership.

(Pub. L. 111–5, div. A, title XIV, §14007, Feb. 17, 2009, 123 Stat. 284; Pub. L. 111–117, div. D, title III, §307, Dec. 16, 2009, 123 Stat. 3271.)

AMENDMENTS

2009—Subsec. (a)(3). Pub. L. 111–117, §307(1), amended par. (3) generally. Prior to amendment, text read as follows: “The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

“(A) to allow such eligible entities to expand their work and serve as models for best practices;

“(B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and

“(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.”

Subsec. (b). Pub. L. 111–117, §307(2), redesignated pars. (1), (2), (3), and (4) as (1)(A), (1)(B), (2), and (3), respectively, inserted “or” after semicolon in par. (1)(A), amended par. (1)(B) generally, and substituted “it has established one or more partnerships” for “they have established partnerships” in par. (3). Prior to amendment, par. (1)(B) read as follows: “have exceeded the

State’s annual measurable objectives consistent with such section 6311(b)(2) of this title for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 6311(c)(2) of this title;”.

Subsec. (c). Pub. L. 111–117, §307(3), substituted “paragraphs (1)(A) or (1)(B) and (2) of subsection (b) if the nonprofit organization has a record of significantly improving student achievement, attainment, or retention and shall be considered to have met the requirements of subsection (b)(3) if it demonstrates that it will meet the requirement relating to private-sector matching” for “paragraphs (1), (2), (3) of subsection (b) if such nonprofit organization has a record of meeting such requirements”.

Subsec. (d). Pub. L. 111–117, §307(4), added subsec. (d).

GRANT RENEWALS

Pub. L. 113–76, div. H, title III, Jan. 17, 2014, 128 Stat. 392, provided in part: “That the Secretary may renew a grant made under section 14007 [20 U.S.C. 10007] for additional 1-year periods, for fiscal year 2014 and thereafter, if the grantee is meeting its performance targets, up to a total award period of 6 years”.

**§ 10008. State reports**

For each year of the program under this chapter, a State receiving funds under this chapter shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

(1) the uses of funds provided under this chapter within the State;

(2) how the State distributed the funds it received under this chapter;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this chapter;

(4) tax increases that the Governor estimates were averted because of the availability of funds from this chapter;

(5) the State’s progress in reducing inequities in the distribution of highly qualified teachers, in implementing a State longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this chapter, and a description of any actions taken by the State to limit those increases;

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance; and

(8) a description of each modernization, renovation and repair project funded, which shall include the amounts awarded and project costs.

(Pub. L. 111–5, div. A, title XIV, §14008, Feb. 17, 2009, 123 Stat. 285.)

**§ 10009. Evaluation**

The Comptroller General of the United States shall conduct evaluations of the programs under sections 10006 and 10007 of this title which shall include, but not be limited to, the criteria used

for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

(Pub. L. 111–5, div. A, title XIV, §14009, Feb. 17, 2009, 123 Stat. 285.)

#### § 10010. Secretary's report to Congress

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 10008 of this title and the information required by section 10005(b)(3) of this title including State-by-State information.

(Pub. L. 111–5, div. A, title XIV, §14010, Feb. 17, 2009, 123 Stat. 285.)

#### CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

#### § 10011. Prohibition on provision of certain assistance

No recipient of funds under this chapter shall use such funds to provide financial assistance to students to attend private elementary or secondary schools, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(Pub. L. 111–5, div. A, title XIV, §14011, Feb. 17, 2009, 123 Stat. 285; Pub. L. 111–8, div. F, title V, §523(g), Mar. 11, 2009, 123 Stat. 806.)

#### REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

#### AMENDMENTS

2009—Pub. L. 111–8 inserted before period at end “, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)”.

#### § 10012. Fiscal relief

##### (a) In general

For the purpose of relieving fiscal burdens on States and local educational agencies that have experienced a precipitous decline in financial resources, the Secretary of Education may waive or modify any requirement of this chapter relating to maintaining fiscal effort.

##### (b) Duration

A waiver or modification under this section shall be for any of fiscal year 2009, fiscal year

2010, or fiscal year 2011, as determined by the Secretary.

##### (c) Criteria

The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State receiving such waiver or modification will not provide for elementary, secondary, and public higher education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State than the percentage provided for such purpose in the preceding fiscal year.

##### (d) Maintenance of effort

Upon prior approval from the Secretary, a State or local educational agency that receives funds under this chapter may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), administered by the Secretary.

##### (e) Subsequent level of effort

Notwithstanding (d),<sup>1</sup> the level of effort required by a State or local educational agency for the following fiscal year shall not be reduced.

(Pub. L. 111–5, div. A, title XIV, §14012, Feb. 17, 2009, 123 Stat. 285; Pub. L. 111–8, div. F, title V, §523(h), Mar. 11, 2009, 123 Stat. 806.)

#### REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

#### AMENDMENTS

2009—Subsec. (c). Pub. L. 111–8 amended subsec. (c) generally. Prior to amendment, text read as follows: “The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State or local educational agency receiving such waiver or modification will not provide for elementary and secondary education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State or local educational agency than the amount provided for such purpose in the preceding fiscal year.”

#### § 10013. Definitions

Except as otherwise provided in this chapter, as used in this chapter—

(1) the terms “elementary education” and “secondary education” have the meaning given such terms under State law;

(2) the term “high-need local educational agency” means a local educational agency—

(A) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(B) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line;

<sup>1</sup> So in original. Probably should be “subsection (d),”.

(3) the term “institution of higher education” has the meaning given such term in section 1001 of this title;

(4) the term “Secretary” means the Secretary of Education;

(5) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) any other term used that is defined in section 7801 of this title shall have the meaning given the term in such section.

(Pub. L. 111-5, div. A, title XIV, §14013, Feb. 17, 2009, 123 Stat. 286.)